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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 30 April 2003 from the Permanent Mission of Chile to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Chile to the United Nations presents its compliments to the President of the Security Council Committee established pursuant to resolution 1267 (1999) and, in implementation of resolution 1455 (2003), has the honour to transmit herewith an updated report on the measures taken by Chile in respect of paragraph 6 of the aforementioned resolution (see annex).

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Annex to the note verbale dated 30 April 2003 from the Permanent Mission of Chile to the United Nations addressed to the Chairman of the Committee

Report of Chile in implementation of Security Council resolution 1455 (2003)

1. The Security Council, acting under Chapter VII of the Charter of the United Nations, in paragraph 6 of resolution 1455 (2003), of 17 January 2003, called on all States to submit to the Committee established under Council resolution 1267 (1999) (1267 Committee), no later than 90 days from the adoption of that resolution, an updated report on all steps taken to implement the measures referred to in paragraph 4 of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002).

2. Accordingly, Chile is submitting the report which follows to the 1267 Committee in implementation of the request contained in resolution 1455 (2003) and in accordance with the Committee's guidelines on the submission of reports.

Content of resolution 1455 (2003)

3. The Security Council, recalling its resolutions 1267 (1999), 1333 (2000), 1373 (2001), 1390 (2002) and 1452 (2002), reaffirming the need to combat by all means, in accordance with the Charter of the United Nations and international law, threats to international peace and security caused by terrorist acts, reiterating its condemnation of the al-Qa`idah network and other associated terrorist groups for ongoing and multiple criminal terrorist acts, reiterating its unequivocal condemnation of all forms of terrorism and terrorist acts, reaffirming that acts of international terrorism constitute a threat to international peace and security, acting under Chapter VII of the Charter of the United Nations, decided, in paragraph 1 of resolution 1455 (2003), to improve the implementation of the measures imposed by resolutions 1267 (1999), 1333 (2000) and 1390 (2002), and to further improve them within 12 months.

4. Accordingly, it called upon States to submit an updated report on all steps taken to implement the measures referred to in paragraph 4 of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002) and all related investigations and enforcement actions, including a comprehensive summary of frozen assets of listed individuals and entities within Member State territories.

5. The measures imposed by the aforementioned resolutions may be described generically as the freezing of funds and other financial assets or economic resources of Osama bin Laden, members of the al-Qa`idah organization and the Taliban or other individuals, groups, undertakings or entities associated with them which appear on a list created under resolutions 1267 (1999) and 1333 (2000) which is being prepared and updated by the aforementioned 1267 Committee, preventing their entry into or transit through national territory and the supply, sale and transfer to them of arms and related material of all types or technical advice, assistance or training related to military activities.

Measures adopted by Chile

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, al-Qa`idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

To date, and bearing in mind the scope of the Security Council resolutions, none of the Chilean authorities have detected any type of activity carried out by Osama bin Laden, al-Qa`idah, the Taliban or their associates.

Nevertheless, Chile is aware of the threats to international peace and security caused by terrorism, and has therefore mandated the Government to adopt the necessary measures to comply with the Security Council resolutions.

In this regard, the Government of Chile will continue to collaborate with the 1267 Committee and the Counter-Terrorism Committee, with a view to providing information, where necessary, regarding domestic measures taken to implement the resolutions in an effective manner and any problems which may arise during their implementation.

II. Consolidated list

2. **How has the 1267 Committee's list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

Incorporation at the general level

As a first step taken by Chile to implement resolution 1390 (2002), the President of the Republic issued Supreme Decree No. 106, of 3 April 2002, from the Ministry of Foreign Affairs, which provided for the implementation of that resolution. In addition, the relevant authorities and public entities were ordered to ensure compliance with the aforesaid resolution in all areas that came within their competence. Lastly, it provided for the publication in the Official Gazette of the complete authorized text of the resolution and of the consolidated list issued by the Committee in implementation of resolutions 1267 (1999) and 1333 (2000). The Decree was published in the Official Gazette on 6 July 2002, along with the aforementioned resolutions and the consolidated list of individuals and entities issued in implementation of resolution 1267 (1999).

Subsequently, the order was given to incorporate into domestic legislation the amendments to the consolidated list which were communicated to the Chilean authorities by the 1267 Committee. Consequently, Decree No. 234, of 10 October 2002, was issued and published in the Official Gazette on 31 January 2003 and Decree No. 337, of 18 December 2002, is currently being processed. Both decrees were issued by the Ministry of Foreign Affairs and amend the aforementioned Supreme Decree No. 106 by adding and removing names from the list in accordance with the above-mentioned communications. Lastly, the new consolidated list, issued by the 1267 Committee on 4 March 2003, is currently being incorporated.

Incorporation of specific measures

With regard to the specific measures for freezing the funds and other financial assets or economic resources of those individuals, groups, undertakings or entities, preventing their entry into or transit through national territory and the supply, sale and transfer to them of arms and related material of all types or technical advice, assistance or training related to military activities, the Ministries of Finance, the Interior and Defence — the competent State secretariats in those areas — were specially requested to provide for their implementation.

On 18 April 2002, Chile provided the 1267 Committee with information regarding the measures adopted in implementation of resolution 1390 (2002). The Ministries of Finance, the Interior and Defence each notified the Committee of the measures, admissible under Chilean law, that they had adopted in respect of the listed individuals and entities.

With regard to the freezing of funds, as Chile has already pointed out to the 1267 Committee and the Counter-Terrorism Committee, Chilean legislation provides only that funds associated with crimes or ordinary offences can be seized, impounded or confiscated. There is no special provision permitting the freezing of assets by administrative decree. Consideration is currently being given to bridging the legislative gap.

With specific regard to the list, the Ministry of Finance has sent copies to the relevant entities, represented by the Superintendency of Banks and Financial Institutions, which, in turn, has forwarded them to banks and financial institutions so that they can provide any relevant information. To date, none of the banks or financial institutions has notified the authorities that any of the listed individuals or entities figure among their customers.

The Ministry of the Interior, in accordance with current domestic legislation on aliens, contained in Decree-Law No. 1094 of 1975, the Aliens Act, which authorizes prohibiting or preventing aliens from entering the country, has set out internal regulations prohibiting, for an indefinite period, the listed individuals from entering the country. The Chilean *Policía de Investigaciones*, the *Carabineros* and the consular section of the Ministry of Foreign Affairs have been notified of the prohibition.

With regard to measures designed to prevent the supply, sale and transfer of arms and related material of all types, as stated in the first report to the 1267 Committee, in accordance with the Arms Control Act (No. 17,798), generally speaking, no one in Chile is permitted to possess automatic shoulder weapons or side arms, replica weapons, machine guns, sub-machine guns, tommy guns or other automatic or semi-automatic weapons or chemical, biological or natural weapons. Arms other than those listed may be owned only if they are registered in advance with the relevant authorities; there is also a national registry for those types of weapons. It is forbidden to bear arms in Chile, unless the weapon in question is stored in the bearer's place of residence, workplace or other protected location. Lastly, the manufacture, equipping, import or export of arms or controlled materials and the ownership of controlled installations for the manufacture, equipping, storage or deposit of arms must be authorized by the competent authorities.

In this connection, the Ministry of Defence, which is responsible for monitoring and controlling arms and explosives, has taken note of the measures

imposed by paragraph 2 (c) of resolution 1390 (2002) and of the consolidated list and has, in turn, conveyed the text to the branches of the armed forces so that they may implement the respective measures.

Lastly, the Committee should take into consideration the answer to paragraph 2 (a) (ii) of the first report submitted to the Counter-Terrorism Committee and section 8 of the answers to the supplementary report submitted to the same Committee, which outlines article 2 of the Arms Control Act and the legal provisions or procedures applicable to the acquisition of weapons.

Furthermore, the competent State secretariats have been notified of the amendments to the list so that they can adopt the relevant measures.

More details regarding specific incorporation in respect of each issue are contained in the following paragraphs, which describe the precise measures adopted by each competent ministerial department.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.**

None of the competent Chilean institutions have encountered any problems with the implementation of the list. However, the *Policía de Investigaciones* believes that it would be useful to create a consultative body to deal with the listed individuals who appear only under their first name and family name, in order to carry out the relevant removals.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

In accordance with the information provided by the Chilean police, to date, no designated individuals have been identified inside Chilean territory. However, the names of the individuals and entities on the new consolidated list issued by the Committee are being incorporated and are currently being studied with a view to ascertaining whether any of them are active in Chile.

5. **Please submit to the Committee, to the extent possible, the names of the individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa`idah that have not been included in the list, unless to do so would compromise investigations or enforcement actions.**

There are no additional names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa`idah. However, the new names added to the list are currently being checked.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list?**

No. As stated above, no individuals from the list have been identified.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

Having revised the list, we have ascertained that none of the listed individuals are nationals or residents of Chile. We do not have any additional information on the listed individuals.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa`idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa`idah training camps established in your territory or in another country.

As a first step, an immigration measure was adopted which prohibited, for an indefinite period, listed individuals from entering national territory. This measure was based on the provisions of Supreme Decree No. 597 of 1984, the Alien Affairs Regulation, article 26 (1) of which stipulates: "Entry into the country is denied to anyone who propagates or promotes, in oral, written or any other form, ideas intended to destroy or alter by violent means the social order of the country or its system of government, anyone who is accused of criminal activities or is reputed to be an agitator or an activist and, in general, anyone who engages in activities which are classified by Chilean law as crimes against external security, national sovereignty, domestic security or public order and those who engage in acts which undermine Chilean interests".

The Chilean *Policía de Investigaciones* has pointed out that, following the attacks of 11 September 2001 in the United States, periodic checks are carried out on the commercial, cultural and religious activities of individuals of Middle Eastern origin; these checks make it possible to identify leaders or individuals with more radical beliefs. Other governmental bodies are responsible for monitoring business assets. As far as persons arriving in Chile for the first time are concerned, the reasons for their arrival and their links with those who have invited them are investigated, where appropriate.

III. Financial and economic assets freeze

9. Please describe briefly:

- **The domestic legal basis to implement the asset freeze required by resolutions 1267 (1999) and 1390 (2002)**

The Penal Code and the Codes of Penal Procedure provide mechanisms to ensure the financial responsibility of the defendant and of third parties liable under civil law. Property linked to terrorism can be seized, impounded or confiscated by invoking a specific criminal offence and instituting legal proceedings.

In this context, the Penal Code and the Codes of Penal Procedure currently in force contain a number of provisions that allow for full compliance with the requirement under discussion.

Under the Penal Code, confiscation constitutes an additional and obligatory punishment for all crimes and simple offences (articles 21 and 31).[1]

[1] Article 31. Any punishment meted out for a crime or a simple offence shall entail the loss of the property arising therefrom and the instruments used to carry it out, unless they belong to a third party not liable for the crime or simple offence.

Moreover, the Codes of Penal Procedure currently in force in Chile contain the necessary provisions to allow for the impoundment (seizure) of property linked to terrorism during the investigation and trial (new Code of Penal Procedure: under *Investigative Proceedings*, third paragraph, of Chapter I of the Second Book, in particular articles 187,[2] 215[3] and 217[4] and article 114[5] of the Code of Penal Procedure). Similarly, both legal texts empower the court to order effective protective measures to ensure the civil or financial responsibility of the defendant, such as attachment, seizure, intervention or a prohibition on the conclusion of legal agreements or contracts (new Code of Penal Procedure, art. 157,[6] and Code of Penal Procedure: Chapter X of Second Book, art. 380 et seq.).

Articles 380 et seq. of the Code of Penal Procedure deal with the seizure of property and other measures. For example, property belonging to the accused or to third parties liable under civil law is seized, in order to protect any financial claims

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[2] Article 187. *Objects, documents and instruments*. The objects, documents and instruments of any kind that appear to have been used or to have been intended for use in the commission of the act under investigation, or those that arise from that act, or those that might serve as evidence, as well as those found at the scene of the incident referred to in paragraph (c) of article 83, shall be collected, identified, sealed and stored. In all cases, a record shall be made of the procedure, in accordance with the usual rules. If the objects, documents or instruments are found in the possession of the accused or in that of another person, they shall be impounded in accordance with this Chapter. All objects, documents and instruments found in the possession of an accused who is detained in accordance with article 83 (b), shall be impounded immediately.

[3] Article 215. *Objects and documents unrelated to the act under investigation*. If, during the inventory, objects or documents are discovered that suggest the existence of a punishable act different from that which formed the basis of the case from which the order arose, they may be impounded by court order. Such objects and documents shall be stored by the prosecutor's office.

[4] Article 217. *Impoundment of objects and documents*. The objects and documents related to the act under investigation, those that may be subject to the penalty of confiscation and those that might serve as evidence, shall be impounded by court order at the request of the prosecutor, when the person in whose possession they are found does not hand them over voluntarily or if the requirement that they should be handed over voluntarily jeopardizes the outcome of the investigation.

If the objects and documents are found in the possession of a person other than the accused, instead of ordering their impoundment, or rather, prior to their impoundment, the judge can order that person to hand them over. In such a case, the enforcement measures applicable to witnesses shall apply. However, such an order cannot be given to persons who are permitted by law to refuse to testify.

[5] Article 114 (135). The instruments, weapons and objects of any kind that appear to have been used or were intended to have been used in the commission of the offence, and the goods arising therefrom, whether in the possession of the accused or of another person, shall be impounded by the judge, who shall order them to be sealed and shall make a record of the procedure, which shall be signed, where possible, by the person in whose possession they were found. The judge shall take appropriate measures to ensure that the items impounded are maintained in the best possible condition.

[6] Article 157. *Legitimacy of effective precautionary measures*. During the investigative phase, the public prosecutor or the victim may submit a request, in writing, to the judge (*juez de garantia*) for adoption, in respect of the accused, of any of the protective measures authorized in Chapter V, Second Book, Civil Procedure Code. Such requests shall be considered and implemented in accordance with the provisions of Chapter IV of that Book. Once the measure is approved, the limit for the submission of a request shall be extended in accordance with the provisions of article 60.

On filing a civil complaint, the victim may likewise request the adoption of one or more such measures.

that might be raised against them; for until an enforceable judgement is pronounced, the seizure shall be considered simply protective in nature (Code of Penal Procedure, art. 382).

The Code of Penal Procedure also provides for the adoption of protective measures regarding the belongings of the accused and of third parties liable under civil law; such measures are described in Chapter V of Book II of the Penal Procedure Code. Such protective measures include: impoundment of the thing that is the subject of the suit, the appointment of one or more custodians, the attachment of certain property, and the prohibition from concluding legal agreements and contracts regarding those items. Lastly, during a criminal investigation a judge may seize (impound) the instruments, weapons or objects of any kind that appear to have been used, or to have been intended for use in the commission of the offence, and any goods arising from the offence, whether in the possession of the accused or of another person (art. 114, Penal Procedure Code). Such instruments or goods arising from the offence may be definitively confiscated under the terms of the sentence (art. 504, Penal Procedure Code) and later remitted to the competent authority, destroyed or put up for public auction, as appropriate (arts. 672 et seq., Penal Procedure Code).

With respect to special legal provisions, it should be borne in mind that article 19 of Act 19.366, which governs the illicit traffic in narcotics and psychotropic substances, expressly provides that once a criminal action is concluded with regard to any of the offences established in article 12 of that legal text, the presiding judge may, among other measures, place in banks or other financial entities deposits of any kind.

Finally, it should be borne in mind that the Chilean Political Constitution allows the penalty of confiscation in cases involving unlawful organizations (art. 19, para. 7 (g)).

- **Any impediments under Chilean domestic law in this context and steps taken to address them**

Aside from the provisions described above, which exist within the framework of the criminal process, it should be noted that there are no special laws within the Chilean legal system that allow for the administrative freezing of ordinary bank accounts or assets.

In sum, in order to establish any measure for the freezing of assets, the judge would have to institute a criminal trial for offences subject to the jurisdiction of the Chilean courts.

As stated in the supplementary report submitted to the Counter-Terrorism Committee, the foregoing does not prevent Chile from processing requests from abroad for the freezing of assets if such requests arise in the context of a trial being heard by a foreign court, and are formalized through a letter of request. It should be borne in mind that the authority which must rule on the admissibility of the request is the Supreme Court of Justice and that, if it is ruled admissible, it must be complied with by the competent judge.

Legislative reform is currently being considered with respect to the matter of freezing accounts and other assets in banks and financial institutions.

Another essential step is the establishment of legal and/or administrative provisions designed to oblige banks and financial institutions to adopt security measures (such as monitoring, following up and reporting on suspicious bank or financial transactions; comprehensive and rigorous identification of bank account holders, mainly in respect of legal persons; retention of documents and records detailing bank transactions, etc.).

10. **Please describe any structures or mechanisms in place in Chile to identify and investigate Osama bin Laden-, al-Qa`idah or Taliban-related financial networks or associated entities or individuals.**

Every time a request relating to the list kept by the Committee established pursuant to Security Council resolution 1267 (1999) is submitted, it passes through the Ministry of Foreign Affairs, which, in turn, transmits it to the Ministry of Finance, which takes any necessary action.

The procedure followed by the Ministry of Finance has been to request, through the financial regulatory authority, the supervised entities, namely banks and financial institutions, to conduct investigations into the listed individuals, with a view to providing information on any previous convictions. As of 3 March 2003, 29 pieces of information have been sent and, to date, no bank or financial institution has reported having or having had any of the listed individuals as a customer. That procedure was also carried out through the State Defence Council, with identical results.

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa`idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

Financial supervisory bodies, particularly the Superintendency of Banks and Financial Institutions, have broad authority to promote and enforce compliance with laws and regulations. These provisions are fully applicable in the areas of money laundering and the financing of terrorism, and provide for penalties ranging from warnings and fines to the revocation of a corporation's trading licence. All of the above is without prejudice to any criminal penalties the courts may apply where appropriate.

The financial-sector regulatory authorities, like other State bodies, are required under articles 14 and 16 of Act No. 19,366 to collaborate by providing any information needed for money-laundering investigations carried out by the State Defence Council. This authority has been extended to all investigations conducted by the Public Prosecutor's Office, in accordance with the new Code of Penal Procedure.

As for the banking sector, the Superintendency has issued chapters 1 to 14 of the updated compendium of rules, containing instructions as to the measures to be taken by banks for the prevention of money laundering. Under circular No. 3150/1421, of October 2001, the original provisions relating to the laundering of funds derived from drug trafficking were extended to activities for the financing of terrorism. (For the text of these provisions, see annexes I and II.)

A draft law currently under consideration by Parliament would provide for the establishment of a financial intelligence and analysis unit and would introduce a number of improvements to current legislation on money laundering, in accordance with international recommendations.

In relation to the "know your customer" principle, the General Banking Act mandates compliance with specific requirements designed to ensure the solvency and integrity of persons acquiring control over a significant share in the ownership of a financial entity, either at the time when such entities are established or subsequently through the purchase on the secondary market of shares or other instruments which involve obtaining such control. The applicable rules in such cases are mainly article 16 bis and Title II of the General Banking Act, in addition to the relevant regulations contained in the updated compendium of rules on banks and financial entities of the Superintendency of Banks and Financial Institutions. Those legislative instruments establish the duty of the Superintendency to monitor natural and legal persons controlling any financial institution. The aforementioned Title II provides, inter alia, that the founding shareholders of a bank must be persons of integrity; in other words, their conduct must be free of fraudulent or culpable actions of a serious or repeated nature.

12. **List of assets frozen by Chile pursuant to Security Council resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003).**

As mentioned above, no financial product has been found on the Chilean market which is linked in any way to any of the individuals or entities enumerated in the lists circulated by the Security Council. Consequently, no assets have been frozen pursuant to the aforementioned resolutions.

13. **Please indicate whether you have released any assets pursuant to resolution 1452 (2002).**

As mentioned above, no assets or financial products have been found on the Chilean market which are in any way linked to any of the individuals or entities enumerated in the lists circulated by the Security Council. No assets have therefore been released.

14. **Duty of States to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of methods, procedures etc. used in freezing accounts.**

Once the Ministry of Finance receives from the Ministry of Foreign Affairs the necessary information relating to the list, the information is transmitted to the Superintendency of Banks and Financial Institutions in order that the persons monitored by the Superintendency should submit reports as soon as possible through the Superintendency, in accordance with the requirements of the Security Council.

The Superintendency is the supervisory body for the State Bank, for banking enterprises of all kinds and for entities the oversight of which is not attributed by law to any other institution. It also supervises companies whose business consists of

issuing or operating credit cards or any similar system, provided that the issuing or operating entity habitually enters into financial obligations with the public sector or with certain areas or specific groups within the public sector.

Both current legislation (Act No. 19,366 and the Penal Code) and the new Code of Penal Procedure require that all authorities, including financial oversight bodies, cooperate with investigations conducted by the relevant bodies in relation to money laundering.

As mentioned above, a draft law currently in preparation will establish a Financial Analysis Unit and modify the Penal Code in relation to the laundering of assets. This legal initiative creates an obligation for a number of entities such as banks and financial institutions, the Foreign Investment Committee, foreign exchange establishments, money transfer agencies and general customs brokers to inform the Unit of any suspicious transactions or operations they may observe in the course of their activities; the term "suspicious" is deemed to apply to any isolated or repeated transaction or operation which, compared with the usual way of carrying out the type of transaction concerned, seems out of the ordinary or without apparent economic or legal justification.

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of listed individuals (para. 1 of resolution 1455 (2003), para. 2 (b) of resolution 1390 (2002)).

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

The list drawn up by the Committee established under Security Council resolution 1267 (1999) was incorporated into Chilean law by an administrative measure, Interior Ministry exempt decision No. 2,489 of 11 July 2002, signed by the Under-Secretary of the Interior. Copies of this decision, which formally establishes the prohibition of entry into the country by listed persons, were sent to the *Carabineros* and the *Policía de Investigaciones*. A copy was also sent to the Consular and Immigration Affairs Department of the Ministry of Foreign Affairs, to be taken into account when visas are issued in other countries.

As for the police forces, the lists were incorporated into the database of the Police Intelligence Directorate of the *Carabineros* for its specific institutional uses and requirements. The *Policía de Investigaciones* has a three-pronged approach to the matter:

(a) **Intelligence.** Databases containing information on persons connected to terrorist groups operating in various countries worldwide are maintained in order to detect any presence maintained in Chile and know of their activities in the country. Particular attention is given to persons from those countries which protect or are associated with terrorist activities. As for the Taliban, the Chilean authorities monitor any activities of Afghan refugees in an effort to detect integration into another country for other purposes.

(b) **Border controls.** Migration is monitored by means of a computerized system containing the list of individuals and entities drawn up by the 1267

Committee. The institutional database also contains details of judicial decisions (arrests and detentions) and the decisions of administrative authorities, such as those pertaining to resident or non-resident status, arrivals and departures, deportations, and bans or prohibitions on entry to Chile.

(c) **Interpol.** Another database is used at border control points, containing information on detention orders for extradition purposes (Red Notices) submitted by member States of Interpol (the International Criminal Police Organization). The border control force also maintains frequent contacts with its foreign counterparts through its own system.

As for the updated and revised consolidated list containing the names of persons connected with the Taliban and/or al-Qa'idah and replacing previous lists drawn up by the 1267 Committee, the Overseas Affairs and Immigration Department of the Ministry of the Interior, in its official letter No. 4060 of 7 April 2003, requested the National Headquarters for Overseas Affairs and International Police to implement the relevant bans on entry to the country pending the entry into force of the exempt decision.

16. **Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

Yes. The list has been incorporated into the border control databases of the *Policía de Investigaciones*, the *Carabineros* and the Overseas Affairs and Immigration Department of the Ministry of the Interior. The same will be done with the names included in the latest list produced by the 1267 Committee.

One problem encountered is the fact that important particulars, such as date of birth and full name, are missing in the case of certain persons entered into the computerized system and included in the list. This will make it difficult to eliminate those who share similar first and last names with persons on the list; such difficulties are frequent in the field of migration controls.

17. **How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?**

The *Policía de Investigaciones* sends the lists to border control points as soon as it receives them, so that they can be incorporated into the database. Nonetheless, since not all border control points have online connections, searching data by electronic means is not possible at all entry points.

18. **Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

No individuals have been stopped.

19. **Please provide an outline of the measures, if any, taken to incorporate the list in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the list?**

The Overseas Affairs and Immigration Department of the Ministry of the Interior and the Consular and Immigration Affairs Department of the Ministry of Foreign Affairs coordinate their work in relation to the issue by the latter Ministry

of consular visas and residence permits. Thanks to this coordination, the Consular and Immigration Affairs Department has access to the database of the Overseas Affairs and Immigration Department and can therefore check whether any immigration action has been taken against a given applicant, such as prohibition of entry to or deportation from Chile.

V. Arms embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. **What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

The Ministry of Foreign Affairs periodically reports on countries subject to prohibitions or restrictions in relation to the export of military items.

Official letters Nos. 000129 and No. 000936, dated 15 January 2003 and 9 April 2003 respectively, from the Office of the Director General of Special Policy of the Ministry of Foreign Affairs, list the countries currently subject to the relevant restrictions or bans.

Afghanistan (Taliban — al-Qa`idah) is considered a country subject to the export ban, and therefore no product the trading of which is prohibited by international conventions may be exported to that country.

The principal Conventions and Protocols controlling and restricting international trade in arms are the following:

- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (cluster bombs)
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction
- Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction (Ottawa Convention)
- Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare

- International Code of Conduct on Arms Transfers
- Draft International Code of Conduct against Ballistic Missile Proliferation

National legislation includes Act No. 17,798 on the control of weapons and similar items.

21. **What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

No special measures have been adopted specifically for Osama bin Laden, the members of al-Qa`idah and the Taliban and other individuals, groups, undertakings and entities associated with them.

However, under Title II, article 8 of Act No. 17,798, any person who organizes, belongs to, finances, equips, trains, incites or encourages the creation and functioning of private militias, combat groups or militarily organized parties shall be liable to any of the degrees of long-term rigorous imprisonment.

Persons who knowingly assist in the creation and operation of private militias, combat groups or militarily organized parties armed with any of the items referred to in article 3 are liable to the same penalty, diminished by one degree.

22. **Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

Article 4 of Act No. 17,798, on arms and arms-broker licensing, provides that the manufacture, import or export of arms or items listed in article 2 and the construction of installations for the manufacture, assembly, storage or deposit of arms must be authorized by the Division for National Mobilization, which will grant such authorization in the manner and conditions determined by the regulations.

The documents to be submitted in order to obtain authorization include the personal details of the applicant.

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated?**

Further to the response to this question provided under question No. 1, it should be noted that the export of any military item requires authorization from the Ministry of Defence, which is advised by an arms exports commission. The latter analyses the final destination of the item and the specific use to which it is to be put.

VI. Assistance and conclusion

24. **Would Chile be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

The Government considers that the provision of assistance to other States would be useful, from the perspective of sharing information. In this particular case, streamlined systems should be set up at the intergovernmental level to facilitate and activate such exchanges.

25. **Please identify areas, if any, of any incomplete implementation of the Taliban/al-Qa`idah sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.**

We have identified no areas where we have failed to fully implement the sanctions regime, which is sufficiently comprehensive as far as Chile is concerned.

However, since it is not possible to take administrative action for the freezing of assets, the Chilean Government would like to be made aware of the corresponding legislation in other countries, in order to be informed and guided on the constitutional, legal and administrative frameworks existing in those countries which are able to freeze assets without recourse to penal proceedings.